

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MONTANA
BUTTE DIVISION

COTTONWOOD
ENVIRONMENTAL LAW CENTER,

Plaintiff,

vs.

DAVID BERNHARDT, in his official
capacity as Secretary of the Interior;
STEVE BULLOCK, in his official
capacity as Governor of the State of
Montana; CAM SHOLLY, in his
official capacity as Park
Superintendent, Yellowstone National
Park; LEANNE MARTEN, in her
official capacity as Regional Forester,
U.S. Forest Service; NATIONAL
PARK SERVICE; U.S. FOREST
SERVICE; USDA-ANIMAL &
PLANT HEALTH INSPECTION
SERVICE,

Defendants.

No. CV 18-12-BU-SEH

ORDER

On April 30, 2020, Plaintiff filed a Motion for Temporary Restraining Order and Preliminary Injunction.¹ On May 1, 2020, the Court issued an Order² denying

¹ Doc. 113.

² Doc. 118.

the portion of Plaintiff's motion seeking a temporary restraining order for failure to comply with Fed. R. Civ. P. 65(b) and (c).³ A briefing schedule for the request for a preliminary injunction was established.⁴ At 11:53 p.m. (MDT) on May 7, 2020, Plaintiff filed a second Motion for Temporary Restraining Order.⁵ All Defendants oppose.⁶

Plaintiff argues its members "will experience immediate irreparable injury to their safety, scientific, conservation, aesthetic, and recreational interests in Yellowstone bison if a temporary restraining order is not issued that enjoins bison hazing on federal land before this Court can hold a hearing."⁷

Declarations submitted in support of the motion state:

I have plans to bike and hike in and around
the Madison Arm on the Custer Gallatin National
Forest on the west side of Yellowstone National
Park on Sunday May 10th, 2020.⁸

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³ See Doc. 118 at 3.

⁴ See Doc. 118 at 3.

⁵ Doc. 122.

⁶ See Doc. 122 at 5.

⁷ Doc. 122 at 3.

⁸ Doc. 124-1 at 2.

I am concerned about being injured or harassed by state and/or federal officials on ATVs, or on horseback that are hazing bison.⁹

I have plans to recreate on Forest Service land on the west side of Yellowstone National Park on Sunday, May 10th, 2020.¹⁰

Hazing of Yellowstone bison will ruin my recreational experience, either because I won't be able to enjoy bison on national forest lands, or because I will have to watch them be unnecessarily hazed off forest land. The hazing is unnecessary according to the science, which the Government refuses to consider.¹¹

This Court may issue a temporary restraining order without written or oral notice to the adverse party or its attorneys only if the requirements of Fed. R. Civ. P. 65(b) and (c) are fully met and satisfied and only if “specific facts in an affidavit or a verified complaint clearly show that immediate and irreparable injury, loss, or damage will result to the movant before the adverse party can be heard in opposition.”¹²

⁹ Doc. 124-1 at 2.

¹⁰ Doc. 124-2 at 2.

¹¹ Doc. 124-2 at 2.

¹² Fed. R. Civ. P. 65(b)(1)(A).


Plaintiff's most recent motion fails for a second time to provide specific facts that meet the requirement of Fed. R. Civ. P. 65(b)(1)(A), that it must clearly show its members will experience immediate and irreparable injury, loss, or damage if the Court does not issue a temporary restraining order.

Plaintiff has not clearly shown that its members will suffer irreparable injury if a temporary restraining order is not issued.¹³

ORDERED:

1. The Motion for Temporary Restraining Order¹⁴ is DENIED.
2. As noted in the Court's Order of May 1, 2020,¹⁵ the Court will schedule a hearing on Plaintiff's pending requests for a preliminary injunction¹⁶ by further order of Court.

DATED this 8th day of May, 2020.



SAM E. HADDON
United States District Judge

¹³ See *Slaughter v. Nat'l Park Serv.*, 2019 WL 6465093, at *4–5 (D. Mont. Dec. 2, 2019).

¹⁴ Doc. 122.

¹⁵ See Doc. 118.

¹⁶ See Doc. 113 and 122.